



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 6348-00
1 February 2001

SSGT [REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested removal of your failures by the calendar year 1994 and 1995 Staff Sergeant Selection Boards; remedial consideration for the 1994 and 1995 Staff Sergeant Selection Boards; and reinstatement on active duty in the Regular Marine Corps (by implication, a request to set aside your discharge of 1 December 1995).

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 February 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered your prior case file, docket number: 3872-99. Finally, they considered a memorandum for the record dated 24 October 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board found the erroneous data about your conscientious objector status was not placed on your Basic Individual Record (BIR) until 29 January 1996, after the failures in question. They were unable to find that the erroneous BIR data showing your race as white and your religion as Roman Catholic would have harmed your chances for selection. In this regard, they noted that your Department of Defense (DD) 1966/1 ("Application for Enlistment - Armed Forces of the United States") showed your race as "black". Since they found an insufficient basis to remove your failures of selection, they had no grounds to grant you remedial consideration for promotion or reinstatement to active duty. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure
Copy to:
Charles W. Gittins, Esq.

MEMORANDUM FOR THE RECORD

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX, ROOM 2432

WASHINGTON, DC 20370-5100

TELEPHONE: DSN 224-9842 OR COMM (703) 614-9842

FAX: DSN 224-9857 OR COMM (703) 614-9857

DATE: 24OCT00

DOCKET NO: [REDACTED]

PETITIONER (PET): [REDACTED] JR., USMCR

TELEPHONE: (703) 784-9049

I TALKED WITH GYSGT [REDACTED] HQMC MI. HE INFORMED ME THAT THE
CONSCIENTIOUS OBJECTOR (CON OBJTR) ENTRY ON PET'S MCTFS BIR DTD
4APR97 WAS PLACED THERE ON 29JAN96.

[REDACTED]